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DEPARTMENT FOR PRM/ECA ETOURE AND EUR/RUS JGRONDELSKI

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TAGS: PREF PHUM PREL RS

SUBJECT: AN ENDGAME FOR DETAINED UZBEKS IN IVANOVO?

REF: A. STATE 196597

1B. MOSCOW 12583

Classified By: Charge d'Affaires Daniel A. Russell.  
Reasons 1.4 (b and d).

¶1. (C) SUMMARY: UNHCR is developing contingency plans for what may be a final GOR decision on 13 detained Uzbeks in Ivanovo. Our UNHCR and NGO contacts do not have credible information on what the GOR may do, but they expect whatever decision has been made to be implemented as soon as December 16, when the GOR would have to begin releasing the detainees. The Uzbeks' release is just one possibility in what has become a complex legal battle in Russian and international courts. The Embassy has continued to demarche the GOR on these cases, most recently at the Assistant Secretary level on December 8. END SUMMARY.

¶2. (C) UNHCR Senior Protection Officer Gang Li said December 14 that UNHCR has prepared contingency plans to respond to possible new developments in the cases of 13 Uzbeks (12 citizens of Uzbekistan and 1 citizen of Kyrgyzstan), whose extradition has been requested by the Government of Uzbekistan. Li said UNHCR understands that the 13 could/could be released starting on or about December 16. According to UNHCR and others' interpretation of Russian law, detainees may only be held without charges for 180 days before they must be released. This period for the Uzbek detainees ends between December 16 and December 20.

#### OPTIONS AND PLANS

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¶3. (C) Li said there are three likely options: the Uzbeks would not be released, maintaining the status quo; they would be released and would be able to pursue resettlement to a third country; or they would be released but re-arrested with an aim to deport them. Within each of these options, there are important legal questions that have to be considered. One such question is their status in Russia if they are released, because of the consequences it may have for final resolution of the case. As of December 14, neither UNHCR nor the attorney handling their case had any information on what decision the GOR would make, Li said. There had been contradictory signals given in other similar cases. A court in Tyumen rejected the extradition of another Uzbek detainee recently, and he has approached UNHCR without any problems. A court in Lipetsk also ordered the release of an Uzbek, who was then arrested in Moscow and deported despite having an appeal of extradition pending.

¶4. (C) In the interim, UNHCR is working with the Uzbeks' attorney on other legal strategies intended to prevent their deportation. The European Court of Human Rights has taken the case under consideration, resulting in an instruction to the GOR not to deport them, and Russian prosecutors have

stayed the extradition order. The recent Russian Supreme Court ruling on their case omitted any discussion of the legality of the extradition order issued by the Procurator General, only commenting on the legality of the procedures followed in issuing the order. Li said that once the ruling is released, there may be grounds for a further appeal seeking to nullify the order itself. In a separate process, the Uzbeks have filed a request for temporary asylum in Russia on the grounds they would be persecuted if returned. The Federal Migration Service has rejected their request, but a local court in Ivanovo has ordered FMS to review its decision, citing the risk of future persecution.

¶15. (C) Li told us that if the Uzbeks are released, UNHCR will act immediately to try to move them to Sweden, which has already agreed to accept them as refugees. UNHCR's key objective will be to ensure that they have some legal status in Russia so they can receive exit permission from the GOR as well as to protect them from arrest for being in Russia illegally. UNHCR has advised the detainees to apply for a residency permit as soon as they are released, both to facilitate exit permission and to minimize the chance of their arrest as "illegal migrants." Without legal status, they could be deported for administrative violations of the Law on Foreigners, in spite of the on-going court consideration of the extradition.

COMMENT

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¶16. (C) Like our colleagues at UNHCR and in the NGO community, we cannot predict what the GOR will decide to do, and the outcomes of similar cases have been mixed. Thus far at least, the GOR's approach seems to be to let this play out

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through the legal system. Our demarches have relied on reminding Russia of its international obligations under the Convention on Refugees and Convention Against Torture. While continuing to make the point on torture and the GOU's lack of credible assurances that prisoners will be treated in accordance with international standards, the Embassy has been emphasizing the importance of allowing the Uzbeks to pursue their appeals (refs A and B). A court-ordered release would send an important and welcome signal, not only for rule of law in Russia, but to other countries in the region facing similar extradition requests.

RUSSELL